IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 1270 of 2004

Between:

M.Kanaka Pratap, S/o late Lingaiah Chetty,
R/o 23-7-14, Doodavari Street, Visakhapatnam.

..... PETITIONER

AND

1 Bank of India, rep., by its Zonal Manager and Authorised Officer, Zonal Office, Kishan Bhavan, First Floor, 10-50-51, Waltair Main Road, Visakhapatnam-530 002, Visakhapatnam District.
2 The Branch Manager, Bank of India, Surya Bagh Branch, 28-2-48, 1st Floor, Daspalla Centre, Suryabagh-530 020. Visakhapatnam.
3 Union of India, rep., by its Secretary, Law & Legislative Officer, New Delhi.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of a writ of mandamus by declaring that the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 are Un-constitutional and consequently direct the respondents to consider the representation of the petitioner dt.27-12-2003 for waiver of the penal interest and communicate the balance amount payable by the petitioner and on total payment of the amount which was arrived at, release the title documents of the petitioner.

Counsel for the Petitioner:MR.KAJULURIRAMAKRISHNA

Counsel for the Respondent No.3: MR.A.RAJASHEKAR REDDY (SC FOR CG)
Counsel for respondent Nos.1 and 2: Mr S.Surya Prakasa Rao

The Court made the following ORDER:

(per Hon'ble Sri Devinder Gupta, The Chief Justice)

In view of the decision of the Hon'ble Supreme Court in Transfer Case (Civil) No.92-95 of 2002, dated 8th April, 2004 [MARDIA CHEMICALS LTD v UNION OF INDIA & ORS], challenge to the provisions of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not tenable and for that reason relief prayed for in this writ petition cannot be granted. Writ petition is, therefore, dismissed.

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DEVINDER GUPTA, CJ

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G.ROHINI, J

July 9, 2004.

nmr

ASSISTANT REGISTRAR

// true copy //

SECTION OFFICER

To

1 Zonal manager and authorized officer, Bank of India, rep., by its Zonal Manager and Authorised Officer, Zonal Office, Kishan Bhavan, First Floor, 10-50-51, Waltair Main Road, Visakhapatnam-530 002, Visakhapatnam District.

2 The Branch Manager, Bank of India, Surya Bagh Branch,
28-2-48, 1st Floor, Daspalla Centre, Suryabagh-530 020.
Visakhapatnam.

3 Secretary, Union of India, Law & Legislative Officer, New Delhi.

4 2 CD copies.